

ORDINANCE NO. 1528-NS

AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF THOUSAND OAKS ADDING
CHAPTER 27, TO TITLE 5, REGARDING
SIGNS WARNING OF THE RISK OF
CONSUMING ALCOHOL AND ENERGY
DRINKS

The City Council of the City of Thousand Oaks does ordain as follows:

Part 1
(Uncodified)
Findings

1. Alcoholic Energy Drinks (AEDs) are alcoholic beverages that premix alcohol, caffeine and other stimulants and are packaged in containers that are difficult to distinguish from non-alcoholic energy drinks.
2. Non-alcoholic energy drinks (EDs) are drinks containing caffeine and other stimulants that typically contain the term "energy drink" on their labels and that are marketed and promoted as providing consumers extra energy and/or alertness.
3. Research has established that AEDs, as well as alcohol mixed with EDs, mask the intoxicating effects of alcohol so that the drinker does not realize his/her actual level of intoxication, is more likely to engage in risky behavior such as drinking and driving, and is more likely to cause injury to himself/herself or others.¹
4. AEDs or alcohol mixed with EDs keep the drinker more awake, allowing for more drinking than might otherwise occur, increasing the risk of heavy binge drinking and alcohol poisoning.²
5. Underage drinkers, as well as newly legal age drinkers, are particularly at risk for harm when consuming AEDs or alcohol mixed with EDs because of the likelihood that they will misjudge their intoxication levels because of their inexperience with alcohol and more likely to engage in risky behavior.³
6. EDs are popular with young people, including preteens. AED marketing is similar to the marketing themes and images, and advertising venues (including the internet and other forms of viral marketing) used in EDs marketing, thus increasing the risk that young people will be attracted to AEDs.

¹ Reissig, C. Strain, E., Griffiths, R., 2009. Caffeinated energy drinks—A growing problem. *Drug & Alcohol Dependence* 99: 1-10; Marczinski, C., Fillmore, M., 2006. Clubgoers and their trendy cocktails: Implications of mixing caffeine into alcohol on information processing and subjective reports of intoxication. *Experimental & Clinical Psychopharmacology* 14: 450-458.

² Ferreira, S., de Mello, M., Pompeia, S., de Souza-Formigoni, M., 2006. Effects of energy drink ingestion on alcohol intoxication. *Alcoholism: Clinical & Experimental Research*, 30: 598-605;

³ Simon, M., Mosher, J., 2007. *Alcohol, Energy Drinks, and Youth: A Dangerous Mix*. Marin Institute, San Rafael, CA. <http://www.marininstitute.org/alcopops/resources/EnergyDrinkReport.pdf>.

7. These risks have been acknowledged by the two largest brewers in the United States (Anheuser Busch Company and Miller/Coors Company), which have removed all stimulants from their alcoholic beverages pursuant to a Voluntary Assurance of Compliance with 13 State Attorney General Offices, including the Attorney General of California, and the City/County of San Francisco.
8. Alcohol mixed with EDs pose particular and greater risks beyond the risks posed by traditional mixed drinks that contain alcohol and caffeine such as Irish Coffee, Kahlua, other traditional coffee-based mixed drinks, and Rum and Coke because: (a) EDs are specifically marketed as having energy and alertness-enhancing properties (b) ED-mixed alcoholic beverages typically have larger amounts of stimulants; (c) EDs are popular among pre-teens, teenagers and young adults, who are at increased risk of injury when consuming beverages that combine alcohol with caffeine or other stimulants; and (d) EDs constitute a new beverage category in the marketplace and the risks associated with mixing them with alcohol are not well known to the public.
9. Federal and State agencies have taken only minimal steps to inform the public of the health and safety risks associated with AEDs or alcohol mixed with EDs and the public is largely unaware of the risks.
10. The City of Thousand Oaks seeks to educate parents, teachers, retailers, law enforcement, young people, and the general public regarding the health and safety risks associated with AEDs or alcohol mixed with EDs.

Part 2

Chapter 27, Alcohol Energy Drinks, of Title 5, Public Welfare Morals and Conduct, of the Thousand Oaks Municipal Code is hereby added to read as follows:

CHAPTER 27. ALCOHOL ENERGY DRINKS

Sec. 5-27.01. Purpose

The purposes of this ordinance is to protect public health, safety and general welfare by providing information to consumers when making purchases of Alcoholic Energy Drinks or alcohol mixed with Energy Drinks. City of Thousand Oaks does not intend to regulate the sale or purchase of alcoholic beverages or to affect the ability of a purchaser or seller of alcoholic beverages to complete a sales transaction.

Sec. 5-27.02. Definitions

The following words and phrases, as used in this chapter shall have the following meaning:

(a) Alcoholic Beverage includes alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent or more of alcohol by volume, which is fit for beverage purposes either alone or

Part 3
(Uncodified)
Severability

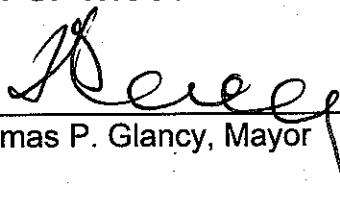
If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance; it being hereby expressly declared that this Ordinance, and each section, subsection, sentence, clause and phrase hereof, would have been prepared, proposed, adopted, approved and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Part 4
(Uncodified)
Effective Date

This ordinance shall take effect on the 31st day following its final passage and adoption.

PASSED AND ADOPTED this 17th day of November, 2009.

CITY OF THOUSAND OAKS



Thomas P. Glancy, Mayor

ATTEST:



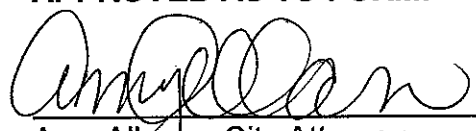
Linda D. Lawrence, City Clerk

APPROVED AS TO ADMINISTRATION:



Scott Mitnick, City Manager

APPROVED AS TO FORM:



Amy Albano, City Attorney

when diluted, mixed, or combined with other substances, the sale of which requires a license from the California Department of Alcoholic Beverage Control.

(b) Alcoholic Energy Drink (AEDs) means an alcoholic beverage to which is added caffeine and/or other stimulants that are metabolized as caffeine, such as guarana. Alcoholic Energy Drinks do not include coffee-based alcoholic beverages, including Irish Coffee and Kahlua.

(c) Non-alcohol Energy Drink (EDs) means a beverage that contains at least 4 mg/oz concentration of caffeine and/or other stimulants and: (1) has the word "energy" in its brand name; or (2) has the term "energy drink" on its label; or (3) is marketed and promoted to consumers as providing extra energy or alertness when consumed. Non-alcohol Energy Drinks do not include traditional sodas that do not meet any of the three criteria listed above or coffee-based beverages.

Sec. 5-27.03. Duty to Post Warning Signs

(a) Any person or entity who owns, operates, manages, leases or rents a premises offering for sale or dispensing for consideration to the public AEDs or Alcoholic Beverages and EDs shall cause a sign or notice to be posted or displayed on the premises as provided in this section. The sign or notice shall comply with the readability requirements specified herein and shall read substantially as follows:

WARNING: Consuming energy drinks that contain or are mixed with
alcohol may mask the signs of impairment and INCREASE YOUR
RISKS OF INJURY

In no event shall a sign as required herein be smaller than 8 inches wide and 8 inches long, nor shall any lettering thereon be less than a half-1 inch in height.

(b) Placement. A sign or notice required by subsection (a) above shall be placed as follows:

(1) Where the sale or dispensing of AEDs or Alcoholic Beverages and EDs to the public is primarily intended for consumption off the premises, at least one sign shall be placed at all locations in the store where AEDs or Alcoholic Beverages and EDs are displayed for purchase.

(2) Where the sale or dispensing of AEDs or Alcoholic Beverages and EDs to the public is primarily provided through over-the-counter service, at least one sign shall be placed to assure that it is readable from all counter locations available to the public.

(3) Where the sale or dispensing of AEDs or Alcoholic Beverages and EDs to the public is primarily provided for consumption on the premises by the public at tables served by food or beverage service persons, at least one sign shall be placed to assure it is readable by the public entering the premises.

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF VENTURA) SS.
CITY OF THOUSAND OAKS)

I, LINDA D. LAWRENCE, City Clerk of the City of Thousand Oaks, DO HEREBY CERTIFY that the foregoing is a full, true, and correct copy of Ordinance No. 1528-NS, that was introduced by said City Council at a regular meeting held October 27, 2009 and adopted by said City Council at a regular meeting held on November 17, 2009 by the following vote:


AYES: Councilmembers Irwin, Fox, Bill-de la Peña and Gillette

NOES: None

ABSENT: Mayor Glancy

I further certify that said Ordinance No. 1528-NS was published as required by law in the THOUSAND OAKS STAR, a newspaper of general circulation printed and published in said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Thousand Oaks, California.



Linda D. Lawrence, City Clerk
City of Thousand Oaks, California

Ord. No. 1528-NS

